

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**DAWN M DAVIS**  
Claimant

**APPEAL 21A-UI-09664-SC-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CAMSO MANUFACTURING USA LTD**  
Employer

**OC: 07/05/20**  
**Claimant: Appellant (2)**

Iowa Code § 96.4(3) – Ability to and Availability for Work  
Iowa Admin. Code r. 871-24.22 – Able & Available - Benefits Eligibility Conditions  
Iowa Admin. Code r. 871-24.23(26) – Available – Part-time Same Wages and Hours  
Iowa Code § 96.19(38) – Total, Partial, and Temporary Unemployment

**STATEMENT OF THE CASE:**

On April 5, 2021, Dawn M. Davis (claimant) filed an appeal from the March 30, 2021, reference 01, unemployment insurance decision that denied benefits effective February 21, 2021, based upon the determination she was still employed in the same hours and wages with Camso Manufacturing USA, LTD. and was not able to and available for work. After due notice was issued, a telephone hearing was held on June 21, 2021. The claimant participated. The employer participated through Renae Bettcher, HR Manager. The employer's Exhibits 1 through 3 were admitted into the record.

**ISSUES:**

Is the claimant totally, partially, or temporarily unemployed?  
Was the claimant able to work, available for work, and actively and earnestly seeking work effective February 14, 2021?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant began working for the employer on August 24, 2020, as a full-time Sub-Assembly associate. The claimant filed her initial claim for benefits effective July 5, 2020, and the weekly benefit amount is \$531.

The claimant reactivated her claim for benefits effective February 14, 2021. During that week, she only worked 16.67 hours because the employer did not have additional work due to a parts shortage. The claimant's hourly wage was \$18.62, and she reported \$306 in wages earned that week.

The claimant reactivated her claim for benefits effective April 4. She only worked 16.25 hours that week because the employer did not have additional work due to a parts shortage. The claimant's hourly wage is \$19.39, and she reported \$310 in wages earned that week.

## **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes that the claimant was partially unemployed and considered able to and available for work effective February 14, 2021. Benefits are allowed, provided she meets all other eligibility requirements.

Iowa Code section 96.4(3) provides:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

3. The individual is able to work, is available for work, and is earnestly and actively seeking work. *This subsection is waived if the individual is deemed partially unemployed, while employed at the individual's regular job, as defined in section 96.1A, subsection 37, paragraph "b", subparagraph (1), or temporarily unemployed as defined in section 96.1A, subsection 37, paragraph "c".* The work search requirements of this subsection and the disqualification requirement for failure to apply for, or to accept suitable work of section 96.5, subsection 3 are waived if the individual is not disqualified for benefits under section 96.5, subsection 1, paragraph "h". [Emphasis added.]

Iowa Code section 96.1A(37)<sup>1</sup> provides:

Definitions.

### **37. Total and partial unemployment**

a. An individual shall be deemed "totally unemployed" in any week with respect to which no wages are payable to the individual and during which the individual performs no services.

b. An individual shall be deemed partially unemployed in any week in which either of the following apply:

(1) While employed at the individual's then regular job, the individual works less than the regular full-time week and in which the individual earns less than the individual's weekly benefit amount plus fifteen dollars.

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<sup>1</sup> In the 2020 Iowa Code, the same definitions are found at 96.19(38).

(2) The individual, having been separated from the individual's regular job, earns at odd jobs less than the individual's weekly benefit amount plus fifteen dollars.

c. An individual shall be deemed temporarily unemployed if for a period, verified by the department, not to exceed four consecutive weeks, the individual is unemployed due to a plant shutdown, vacation, inventory, lack of work or emergency from the individual's regular job or trade in which the individual worked full-time and will again work full-time, if the individual's employment, although temporarily suspended, has not been terminated.

Under Iowa Employment Security Law, an individual must be unemployed to be eligible for unemployment insurance benefits. Iowa Code § 96.1A(37). Total and temporary unemployment occur when an individual does not work or earn wages in any given week. Partial unemployment occurs when a person works and earns wages less than their weekly benefit amount plus fifteen dollars and the loss of hours was due to the employer's lack of work.

The claimant's hours were reduced and she earned wages less than \$546, or her weekly benefit amount plus fifteen dollars, during the weeks ending February 20 and April 10, 2021. The claimant was partially unemployed during those weeks, and she is considered able to and available for work. Partial benefits are allowed, provided he is otherwise eligible.

**DECISION:**

The March 30, 2021, reference 01, unemployment insurance decision is reversed. The claimant was partially unemployed during the relevant times, and she is considered able to and available for work effective February 14, 2021. Partial benefits are allowed, provided she is otherwise eligible.



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Stephanie R. Callahan  
Administrative Law Judge

July 01, 2021  
Decision Dated and Mailed

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